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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/715,809	11/17/2000	Ronald E. Olberding	27021-A	8090
23589	7590	02/03/2006	EXAMINER	
HOVEY WILLIAMS LLP 2405 GRAND BLVD., SUITE 400 KANSAS CITY, MO 64108			THISSELL, JENNIFER I	
			ART UNIT	PAPER NUMBER
			3635	

DATE MAILED: 02/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/715,809

Applicant(s)

OLBERDING ET AL.

Examiner

Jennifer I. Thissell

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 November 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20-56 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20-56 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

Claim 30 is objected to because of the following informalities: the word "reenforcing" is misspelled. Appropriate correction is required.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 20-56 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-11 and 14-19 of U.S. Patent No. 6,185,881. Although the conflicting claims are not identical, they are not patentably distinct from each other because claim 1 in U.S. Patent

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6,185,881 recites a door, a pair of door jambs, a strike plate, a hinge, a sidelight assembly, and a reinforcement plate, which corresponds to claims 20, 21, 23-25, and 28, of the pending application. Claim 3 of the prior patent, which corresponds to claims 22 and 27 of the pending application, recites a second sidelight assembly. Claim 5 of the prior patent, which corresponds to claim 26 of the pending application, recites a strike plate positioned flat against the inner face of the door jamb and fastened to the reinforcement plate. Claim 4 of the prior patent, which corresponds to claim 29 of the pending application, recites a pair of swingable plates, one positioned along the inner face of the jamb and one fixed to the reinforcement plate. Claims 14-19 of the prior patent, which correspond to claims 30-38 of the pending application, recite fastening the strike plate and the hinge to the corresponding jambs, placing a window jamb, connecting the window jamb and the door jamb, and securing a reinforcement plate which reinforces the jamb. Claims 1-11 of the prior patent also correspond to claims 39-56 of the pending application, as they recite the product as stated above.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 20, 23, 28, 30-32, 34, and 35 are rejected under 35 U.S.C. 102(b) as being anticipated by Governale ('088). Governale teaches a door assembly including a door 11 and a pair of laterally spaced jambs, there is door hardware (Figure 2) including a strike plate and hinge 20, there is a sidelight assembly 10 alongside of the door assembly, and a reinforcement plate secured flatly to a face of the jamb 15. Because it states that the door structure is reversible (column 2, lines 48-49), it is reasonable to conclude that when the door hardware is reversed, the reinforcement plate would then be secured to the outer face of the hinge-side jamb. The reinforcement plate would also be located at the hinge-side jamb when three and four panels were utilized (column 1, lines 66-67).

Regarding claims 30-32, 34 and 35, Governale teaches the method of reinforcing a fenestration product, as the strike plate is fixed to a strike-side jamb, the hinge is fixed to a hinge-side jamb, a window is placed adjacent one of the jambs, the hinge-side jamb is reinforced to restrict movement by way of the fastener that connects it to the jamb, the strike-side jamb is reinforced by way of the fastener that connects it to the jamb so that movement is restricted, and a window is placed adjacent the hinge-side jamb, as well as adjacent to the strike-side jamb (Column 1, lines 66-67). The reinforcement plate 25 is secured flatly against the outer face of the hinge-side jamb.

Claims 39-41, 46-48, and 50 are rejected under 35 U.S.C. 102(b) as being anticipated by Governale ('088). Governale teaches a door assembly that includes a door 11 and a pair of laterally spaced door jambs 15,19, there is door hardware that includes a strike plate and a hinge 20 as shown in Figure 2, a strike-side sidelight assembly 12 adjacent the strike-side door jamb, and a strike-side reinforcement plate 25 secured to the strike-side door jamb, which restricts the movement of the strike plate since it acts to stiffen the entire jamb. The reinforcement plate is interposed at least in part between the sidelight assembly and the strike-side door jamb, and it is secured flatly at least in part against the outer face of the strike-side door jamb (Figure 4). The sidelight assembly and the door jamb are interconnected (Figure 4).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 21, 22, and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Governale ('088) in view of Nelson ('299). Governale teaches a product as stated above, but does not include an additional reinforcement

plate secured to the strike-side jamb (considered the rightmost jamb in Figure 4). Nelson shows that it is known to provide a reinforcement member 26 at the hinge-side and strike-side jamb. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a hinge-side and strike-side reinforcement plate on Governale's strike-side and hinge-side jamb, respectively, since this would offer greater strength to the door product against forced entry. Once the reinforcement plates were fastened, the hinge plates, as part of the hinge, would be fixed to the reinforcement plate by a fastener since the reinforcement plates are located on the inner faces of the jambs.

Regarding claim 22, the product has a sidelight assembly being adjacent the hinge-side jamb, and also includes an additional sidelight assembly adjacent the strike-side jamb, since it states that three and four panel systems are equally applicable (column 1, lines 66-67).

Claims 33, 36, and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Governale ('088) in view of Nelson ('299). Governale teaches a method of reinforcing a fenestration product as stated above, including having a reinforcement plate secured to the hinge-side jamb, but does not include the step of also securing a reinforcement plate to the strike-side jamb. Nelson shows that it is known to secure a reinforcement member 26 at the hinge-side and strike-side jamb. It would have been obvious to one having

ordinary skill in the art at the time the invention was made to secure a hinge-side and strike-side reinforcement plate on Governale's strike-side and hinge-side jamb, respectively, since this would offer greater strength to the door product against forced entry. Once fastened, the strike plate and hinge plate would then be fastened to the additional reinforcement plate, as the reinforcements are located on the interior faces of the jambs.

Claim 49 is rejected under 35 U.S.C. 103(a) as being unpatentable over Governale ('088) in view of Schimpf ('790). Governale teaches a product as stated above, but does not state that the reinforcement plate is threadably fastened to the door hardware by a fastener. Schimpf shows that it is known to provide a reinforcement plate 11 that is threadably fastened 35 to the door hardware (strike plate 31). Because this would increase the strength of the door hardware if pressure was applied through forced entry, it would have been obvious to one having ordinary skill in the art at the time of the invention to utilize a threaded fastener to connect the reinforcement plate and the door hardware.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer I. Thissell whose telephone number is (571) 272-6849. The examiner can normally be reached on Mondays and Tuesdays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on (571) 272-6842. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JIT


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